

## Message Text

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ACTION ARA-14

INFO OCT-01 ISO-00 SAB-02 IO-13 CIAE-00 DODE-00 PM-05

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TO SECSTATE WASHDC IMMEDIATE 6726

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E.O. 11652: N/A

TAGS: PEPR, PN

SUBJECT: FOREIGN MINISTRY COMMUNIQUE ON THE TREATIES AND SENATE  
CHANGES

REF: PANAMA 2805

SUMMARY: THE FOREIGN MINISTRY HAS RELEASED TO US A COPY OF  
THE 53-PAGE COMMUNIQUE WHICH IT PLANS TO RELEASE TO THE PRESS  
THIS AFTERNOON. THE COMMUNIQUE PUTS THE GOVERNMENT'S SEAL  
OF APPROVAL ON THE TREATIES AND GIVES A ONE-BY-ONE TREATMENT  
OF THE AMENDMENTS, RESERVATIONS AND UNDERSTANDINGS ADDED BY  
THE SENATE. IT STATES THAT IN AGREEING TO THE TERMS OF THE  
INSTRUMENTS OF RATIFICATION, PANAMA WILL REAFFIRM ITS RE-  
JECTION OF INTERVENTION AND WILL ASK THE U.S. TO REAFFIRM  
ITS COMMITMENTS UNDER THE UN AND OAS CHARTERS. THE COM-  
MUNIQUE STATES THAT THE LEADERSHIP RESERVATION TO THE CANAL  
TREATY DIVESTS ("DESPOJAR") THE DECONCINI AMENDMENT OF INTER-  
VENTIONSIM, THUS MAKING THE TREATIES ACCEPTABLE. PERHAPS  
THE MOST INTERESTING ASPECT OF THE FOREIGN MINISTRY'S  
ANALYSIS IS THE FORCE WITH WHICH IT ARGUES THAT CANAL  
COMMISSION POLICY SHOULD PROVIDE FOR THE EXTRA \$10

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MILLION FOR PANAMA UNDER ARTICLE XIII 4(C). END  
SUMMARY

1. FOREIGN MINISTER GONZALEZ-REVILLA EARLY THIS AFTER-  
NOON GAVE TO THE CHARGE AN ADVANCE COPY OF A MINISTRY  
COMMUNIQUE ON THE TEATIES, AS APPROVED BY THE SENATE.  
WE EXPECT THAT IT WILL BE RELEASED TO THE PRESS THIS

AFTERNOON. IT IS ON BALANCE A MODERATE AND REASONED DOCUMENT, THOUGH THERE ARE SOME PASSAGES WHICH COULD BE BETTER FROM OUR STANDPOINT. ITS PURPOSES ARE TO EXPLAIN THE AMENDMENTS, RESERVATIONS AND UNDERSTANDINGS, AND ABOVE ALL TO JUSTIFY TO THE PANAMANIAN PEOPLE AND TO THE WORLD WHY THE TREATIES ARE ACCEPTABLE.

2. THE 53-PAGE DOCUMENT STATES THAT PANAMA, BY APPROVING THE TREATIES IN PLEBISCITE, HAS ALREADY RATIFIED IN THE TREATIES. THE EXECUTIVE BRANCH MERELY COMMUNICATES THAT RATIFICATION TO THE U.S. THERE IS NO DISCUSSION OF WHETHER THERE SHOULD BE A SECOND PLEBISCITE. A PREMISE OF THE DOCUMENT SEEMS TO BE THAT THERE WILL BE NONE.

3. THE COMMUNIQUE, IN ITS ITEM-BY-ITEM REVIEW OF THE SENATE'S ADDENDA STATES THAT THE AMENDMENTS TO THE CANAL TREATY MERELY FORMALIZE WHAT HAD ALREADY BEEN AGREED TO IN THE TORRIJOS-CARTER DECLARATION OF OCTOBER 14, 1977; THIS DECLARATION ALREADY HAD STATUS IN INTERNATIONAL LAW. THE DECONCINI AMENDMENT "OBVIOUSLY DIFFERS" FROM THE TORRIJOS-CARTER DECLARATION IN THAT IT LEAVES OUT THE PRINCIPLE OF NONINTERVENTION. FORTUNATELY, HOWEVER, THE CHURCH RESERVATION (NO. 1 OF THE PANAMA CANAL TREATY) "REAFFIRMS RESPECT FOR THE PRINCIPLE OF NONINTERVENTION". THIS RESERVATION "HAS DIVESTED LIMITED OFFICIAL USE

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(DESPOJADO) THE DECONCINI RESERVATION OF ITS IMPERIALIST AND INTERVENTIONALIST CLAWS, THUS ELIMINATING THE SPECTRE OF INTERVENTION".

4. THE NUNN AMENDMENT (NO. 2 OF THE PANAMA CANAL TREATIES) IS ACCEPTABLE TO PANAMA BECAUSE IT DOES NOT REQUIRE PANAMA TO NEGOTIATE FOR OR ACCEPT U.S. TROOPS IN PANAMA AFTER 2000.

5. THE COMMUNIQUE FORESEES NO NEW PROBLEMS IN REACHING AN AGREEMENT ON THE RESERVATIONS, CONCERNING FLAGS AND CEMETERIES, "FOLLOWING THE MODELS UTILIZED BY OTHER COUNTRIES IN THIS QUESTION, SUCH AS FRANCE".

6. THE COMMJNIQUE RAISES NO OBJECTIONS TO ANY OF THE UNDERSTANDINGS APPENDED TO THE NEUTRALITY TREATY. THE FACTORS WHICH MUST BE CONSIDERED IN SETTING TOLL POLICY, WHICH ARE ENUMERATED IN THE FIRST UNDERSTANDING SEEM "REASONABLE" TO THE PANAMANIAN, THE SORT OF THING ANY "GOOD ADMINISTRATOR" WOULD CONSIDER. NONE OF THE OTHER UNDERSTANDINGS DRAW ANY NEGATIVE COMMENT.

7. IN ITS DISCUSSION OF THE CHURCH RESERVATION, THE COMMUNIQUE STATES: "THIS RESERVATION IS EXTREMELY IMPORTANT IN POLITICAL TERMS. WITH IT THE SENATE DISSIPATED THE WELL-FOUNDED FEARS OF ALL LATIN AMERICA WHICH HAD BEEN RAISED BY THE DECONCINI AMENDMENT'S LANGUAGE OF GUNBOATS AND THE BIG STICK IN THIS HEMISPHERE. THE SENATE HAS REAFFIRMED THE COMMITMENTS OF THE U.S. CONTAINED IN MULTILATERAL PACTS WHICH ARE TREATIES--LAWS WHICH REGULATE NOT ONLY THE LIFE OF AMERICAN STATES BUT EVERYONE. INTERVENTION IS NOT A RIGHT BUT AN INTERNATIONAL CRIME".

8. THE COMMUNIQUE ALSO NOTES THAT THE CHURCH RESERVATION IS LIMITED OFFICIAL USE

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VATION APPLIES NOT ONLY TO THE CANAL TREATY, BUT ALSO TO THE NEUTRALITY TREATY, WHICH IS OF INDEFINITE DURATION.

9. AS FOR THE RESERVATION IN THE CANAL TREATY WHICH STATES THAT NO TREASURY FUNDS MAY BE USED TO PAY PANAMA, THE COMMUNIQUE STATES THAT PANAMA HAS NO OBJECTION AS LONG AS THE U.S. FULFILLS ITS OBLIGATIONS TO PANAMA.

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10. THE RESERVATION CLARIFYING THAT THE U.S. HAS NO FINANCIAL OBLIGATIONS AFTER 2000 IS DESCRIBED AS "CONTAINING A CORRECT INTERPRETATION OF THE TREATY". HOWEVER, IT ALSO STATES: "PANAMA UNDERSTANDS THAT THE U.S. WILL TRY TO REMIT THAT SUM (THE EXTRA \$10 MILLION MENTIONED IN ARTICLE XIII, 4(C)...PARAGRAPH 4(C) IS NOT SUMPTUOUS OR VALUELESS. THE TWO COUNTRIES IN ACCORDANCE WITH THE PRINCIPLES OF GOOD FAITH, SHOULD GIVE IT PRACTICAL CONTENT. THEREFORE, PANAMA DOES NOT FORESEE THAT THERE WILL BE AN UNPAID BALANCE WHEN THE YEAR 2000 ARRIVES. BUT IF THERE SHOULD BE, THE U.S. WILL NOT BE OBLIGATED TO PAY PANAMA THAT BALANCE. (SEE ALSO THE COMMENTS QUOTED IN PARAGRAPH 14 BELOW.)

11. THE LONG RESERVATION TO THE CANAL TREATY, WHICH ELIMINATES THE EFFECT OF ARTICLE XII(2), ON THE SEA LEVEL CANAL, MEETS WITH PANAMA'S APPROVAL. THE COMMUNIQUE STATES THAT PANAMA RESISTED INCLUSION OF THIS PARAGRAPH DURING THE NEGOTIATIONS. IT SAYS THAT THE RESERVATION DOES NOT ALTER THE TREATY SINCE THE PARTIES ARE MERELY RENOUNCING THEIR RIGHTS UNDER ONE OF THE PARAGRAPHS OF THE TREATY.

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12. AS FOR THE RESERVATION PROVIDING FOR PAYMENT OF INTEREST TO THE U.S. TREASURY, PANAMA DOES NOT OBJECT SINCE STUDIES HAVE SHOWN THAT "THE POLICY OF INCOME AND EXPENDITURES FOR CANAL OPERATIONS CAN BE SET SO AS TO FULFILL THE PROVISIONS OF THIS RESERVATION."

13 THE BROOKE UNDERSTANDING TO THE CANAL TREATY CONCERNING PAYMENT TO PANAMA FOR GOVERNMENT SERVICES IS DESCRIBED AS "ACCEPTABLE". THE COMMUNIQUE STATES THAT PANAMA CONSIDERS THAT THE \$10 MILLION PROVIDED FOR THESE SERVICES IS REASONABLE AND "THE MECHANISM FOR ADJUSTMENT WAS ESTABLISHED SO THAT PANAMA MIGHT ALWAYS DETERMINE WHAT IT WAS SPENDING IN ORDER TO PROVIDE THOSE SERVICES".

14. THE COMMUNIQUE STATES THAT THE UNDERSTANDING CONCERNING TOLLS, SPECIFICALLY THAT TOLLS NEED NOT BE FIXED TO PRODUCE THE EXTRA \$10 MILLION DESCRIBED IN ARTICLE XIII (C), IS IN CONFORMITY WITH THE TREATY. HOWEVER, IT ADDS: "WHEN ARTICLE XIII (B) (C) WAS AGREED TO, IT WAS CLEAR FROM THE ANALYSIS OF THE OPERATIONS OF THE CANAL THAT THEY GENERATED APPROXIMATELY \$18 MILLION A YEAR, WHICH IS INCLUDED AS A COST OF CANAL

OPERATION. (EMBASSY COMMENT: THIS APPARENTLY REFERS TO INTEREST PAYMENTS TO THE TREASURY.) THE UNDERSTANDING OF THE NEGOTIATORS WAS THAT THAT AMOUNT WOULD SERVE AS A BASE TO PAY PANAMA THE \$10 MILLION GUARANTEED IN ARTICLE XIII (B) AND THE ADDITIONAL \$10 MILLION PROVIDED IN ARTICLE XIII (C), THESE PAYMENTS BEING CONSIDERED AS PART OF THE COST OF OPERATION OF THE CANAL. THEREFORE, WE AGREE THAT THE OBLIGATIONS LIMITED OFFICIAL USE

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PROCEEDING FROM ARTICLE XIII(4) (B) (C) TO PANAMA MAY BE PAID WITHOUT RAISING TOLLS, AND WE HAVE AGREED WITH THE SENATE THAT IT IS NOT IMPERATIVE TO RAISE TOLLS TO FULFILL THESE OBLIGATIONS TO PANAMA. IN VIRTUE OF THE PRINCIPLE OF GOOD FAITH, WHICH UNDERLIES THE IMPLEMENTATION OF TREATIES, PANAMA HOPES THAT THE U.S. WILL ADJUSTS ITS EXPENDITURE POLICY SO THAT THIS ARTICLE MAY BE A VEHICLE WHEREBY PANAMA RECEIVES A MORE JUST PAYMENT FOR ITS CONTRIBUTION TO THE WORK OF THE CANAL. TO THE DEGREE THAT THE PANAMANIAN PEOPLE ARE SATISFIED WITH THE FRUIT WHICH IT DERIVES FROM THE CANAL'S ADMINISTRATION, THE PEOPLE WILL CONTINUE PROTECTING THE CANAL. BUT IF THERE SHOULD BE A MEAN SPIRIT ACCENTUATING THE INJUSTICE WHICH PANAMA HAS BEEN SUFFERING SINCE 1903, THEN A TRENCH OF HATRED RATHER THAN ONE OF FRIENDSHIP WILL HAVE BEEN BUILT AROUND THE CANAL, WITH SERIOUS CONSEQUENCES IF THERE SHOULD BE A SITUATION OF CRISIS--WHICH THE NATIONAL GOVERNMENT WOULD BE THE FIRST TO LAMENT."

14. THE DOCUMENT CLOSES WITH A CONCLUSION "THAT IT IS UNQUESTIONABLE THAT THE TREATIES ACHIEVE IN A REASONABLE TIMEFRAME THE FUNDAMENTAL OBJECTIVES OF THE PANAMANIAN NATION, AND THEREFORE THE PANAMANIAN GOVERNMENT WILL ACCEDE TO THE EXCHANGE OF INSTRUMENTS OF RATIFICATION". IT ADDS, HOWEVER: "IN AGREEING TO THE TERMS OF THE PROTOCOL OF THE INSTRUMENTS OF RATIFICATION OF EACH TREATY, PANAMA WILL REAFFIRM ITS RIGHT TO FREE DETERMINATION AND TO RESPECTS FOR ITS INTEGRITY AND POLITICAL INDEPENDENCE AS WELL AS ITS REJECTION OF ANY FORM OF INTERFERENCE IN ITS INTERNAL AFFAIRS, AND WILL ASK THE U.S. TO REAFFIRM ITS COMMITMENTS IN CONFORMITY WITH THE CHARTERS OF THE UN AND THE ORGANIZATION OF AMERICAN STATES."

15. COMMENT: OUR RAPID READING OF THIS DOCUMENT INDICATES LIMITED OFFICIAL USE

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THAT IT IS ON BALANCE A MODERATE DOCUMENT, WHICH SHOULD NOT CAUSE US TOO MANY PROBLEMS. WE HAVE QUOTED AT LENGTH THOSE PARTS WHICH WOULD SEEM TO BE MOST TROUBLESOME. THE GLOSSES ON THE EFFECT OF THE CHURCH RESERVATION ON DECONCINI ARE NOT NEARLY AS STRONG AS THEY MIGHT HAVE BEEN. (IN FACT, CARLOS LOPEZ GUEVARA ON A TELEVISION PROGRAM APRIL 24 DESCRIBED CHURCH AS HAVING "ERASED" DECONCINI.) PERHAPS MORE SURPRISING AND CERTAINLY GIVING US FAIR WARNING OF TROUBLE AHEAD IS AN APPARENT DETERMINATION OF THE PANAMANIAN TO MAKE TROUBLE IF THE "EXTRA \$10 MILLION" IS NOT FORTHCOMING. (WE ASSUME IT WILL BE U.S. POLICY TO MINIMIZE PANAMA'S INCOME FROM XIII(4)(C).

16. A COPY OF THE COMMUNIQUE IS BEING MAILED TO ARA/PAN, MR. JAMES HAAHR. GONZALEZ

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 jan 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** TREATY RATIFICATION, COMMUNIQUE, UPPER HOUSE, AMENDMENTS, RESERVATIONS, CANALS  
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**Copy:** SINGLE  
**Draft Date:** 25 apr 1978  
**Decaption Date:** 01 jan 1960  
**Decaption Note:**  
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**Disposition Approved on Date:**  
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**Status:** NATIVE  
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**TAGS:** PEPR, PGOV, PN, US  
**To:** STATE  
**Type:** TE  
**vdkgvwkey:** odb://SAS/SAS.dbo.SAS\_Docs/330449a8-c288-dd11-92da-001cc4696bcc  
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